

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA



FILED

04-08-11
04:59 PM

Order Instituting Rulemaking Regarding Policies
and Protocols for Demand Response Load Impact
Estimates, Cost-Effectiveness Methodologies,
Megawatt Goals and Alignment with California
Independent System Operator Market Design
Protocols

Rulemaking 07-01-041
(Filed January 25, 2007)

**JOINT MOTION OF SOUTHERN CALIFORNIA EDISON COMPANY
(U 338-E), PACIFIC GAS AND ELECTRIC COMPANY (U 39-E), AND SAN DIEGO GAS
AND ELECTRIC COMPANY (U 902 M), TO DELAY ISSUANCE OF PROPOSED
DECISION ON PHASE IV, DIRECT PARTICIPATION**

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Dated: **April 8, 2011**

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DECISION ON PHASE IV, DIRECT PARTICIPATION**

Pursuant to Rule 11.1(a) of the California Public Utilities Commission's (Commission's) Rules of Practice and Procedure, Southern California Edison Company, on behalf of itself, Pacific Gas and Electric Company, and San Diego Gas and Electric Company (jointly, the IOUs),¹ hereby requests a delay in the issuance of a Proposed Decision (PD) on the financial settlement issues germane to Phase IV of Rulemaking 07-01-041 (the DR OIR).

The IOUs believe that the March 15, 2011 decision by the Federal Energy Regulatory Commission (FERC) on DR compensation (Final Order 745) calls for the Commission to reassess its proposed timeline for issuing a PD in R.07-01-041, Phase IV. The February 17, 2011 *Administrative Law Judge's Ruling Providing Guidance For the Development of Direct Participation Rules, Forms, and Requirements* indicates that a PD on Phase IV may be issued on or before May 24, 2011.

¹ SCE has been authorized to file this motion on behalf of the IOUs.

The IOUs respectfully maintain that this timeline should be held in abeyance because the scope and import of FERC Order 745 are uncertain, and there is potential for the FERC decision to conflict directly with the CPUC's ongoing efforts to develop financial compensation rules between DRPs, LSEs and retail end-use customers in accordance with the Proxy Demand Resource (PDR) rules that FERC previously held to be just and reasonable.

Specifically, while FERC Order 745 does not, on its face, purport to disturb the California Independent System Operator's (CAISO's) PDR model, which FERC approved in the *Order Conditionally Accepting Tariff Changes and Directing Compliance Filing*, 132 FERC paragraph 61,045 (2010), it may in fact do so.

As has been discussed extensively in this proceeding, the PDR framework requires LSEs to pay the CAISO for megawatt-hours of energy that their load does not consume. From an LSE's perspective, this creates a "missing money" problem. The parties to R.07-01-041 met for a three-day workshop last January to discuss, among other things, how to resolve this missing money problem caused by the PDR model. There are several potential approaches on the table—EnerNOC supports an "uplift" that would spread the under-collection amongst the IOU-LSEs' bundled customers; all other parties support some kind of financial settlement to make the LSEs whole, though there is disagreement about what the settlement price should be and who should pay whom.

FERC Order 745 proposes a model that could be interpreted to conflict with the PDR design. Under the model contemplated by Order 745, the LSEs simply pay the cost of the physical load that clears (in the example above, the LSE pays for 90 MWh), and the CAISO pays the DRP for 10 MWh of load reduction. The cost of paying for the load reduction (i.e., the 10 MWh that the CAISO paid the DRP) is then allocated amongst all market participants who

theoretically benefited from lower energy prices resulting from demand response. Thus, FERC contemplates an “uplift” at the wholesale level to pay for the cost of the DR load reductions, which is potentially at odds with both scenarios that the Commission is considering in preparing a PD.

The IOUs believe that several parties—including the CAISO, the Edison Electric Institute, several generators, and perhaps even the Commission itself—are considering filing petitions for rehearing of FERC Order 745, which are due in mid-April. The FERC’s ultimate decision on rehearing, if unchanged, may then be subject to challenge at the D.C. Circuit Court of Appeals. To make matters more complicated, the FERC has set a July 2011 deadline for ISO submittal of tariffs that conform to FERC Order 745. Should the CAISO submit a tariff that is consistent with the PDR model, it is difficult to know at this stage whether FERC will approve or reject the tariff.

In light of these uncertainties, the IOUs are concerned that the many moving parts in different jurisdictions will lead to procedural and logistical complications. Should the Administrative Law Judge issue a PD in late May as expected, the Parties could potentially be commenting on it (and perhaps on an Alternate PD, if one issues) even though the PD(s) may potentially stand at odds with a FERC decision on the CAISO’s July compliance filing. This is to say nothing about whether the FERC decision will withstand scrutiny on a potential appeal at the D.C. Circuit Court of Appeals. Therefore, the IOUs request that the PD be deferred until more clarity obtains at FERC.

The IOUs suggest that the Rule 24 contract/tariff/registration workshop process continue as planned so that the DR OIR parties can make headway on the discrete issues that are not affected (or are only tangentially affected) by the tricky financial settlement issues that have only

grown more complicated in recent weeks. This will permit the proceeding to avoid stagnation while, at the same time, obviating the risk of going down a path where the parties (and the Commission) waste valuable time and resources on issues that may ultimately be decided differently in another forum.

The IOUs do not suggest an indefinite delay. Rather, the IOUs propose that the Commission wait until the FERC rules on CAISO's compliance filing (due in July, but CAISO may submit it earlier) to see whether the PDR model—on which the parties' discussions have been based—remains in tact.

Respectfully submitted,

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On behalf of Joint Utilities :
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April 8, 2011

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of **JOINT MOTION OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E), PACIFIC GAS AND ELECTRIC COMPANY (U 39-E), AND SAN DIEGO GAS AND ELECTRIC COMPANY (U 902 M), TO DELAY ISSUANCE OF PROPOSED DECISION ON PHASE IV, DIRECT PARTICIPATION** on all parties identified on the attached service list(s). Service was effected by one or more means indicated below:

Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this **8th day of April, 2011**, at Rosemead, California.

/s/ ALEJANDRA ARZOLA

By: Alejandra Arzola

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California Public
Utilities Commission

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CALIFORNIA PUBLIC UTILITIES COMMISSION

Service Lists

PROCEEDING: R0701041 - CPUC-PG&E, SDG&E, ED

FILER: CPUC-PG&E, SDG&E, EDISON

LIST NAME: LIST

LAST CHANGED: APRIL 5, 2011

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